

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1090 - SB 1421

March 5, 2021

SUMMARY OF BILL: Requires a jury to value property acquired by eminent domain at 130 percent of fair market value and include the depreciation of the property when calculating the amount of damages to be awarded.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures –

\$1,055,800/FY21-22 and Subsequent Years/Highway Fund

Increase Local Expenditures –

Exceeds \$500,000/FY21-22 and Subsequent Years/Permissive

Other Fiscal Impact – Requiring juries to include the value of depreciation when calculating damage could jeopardize federal funding to the Department of Transportation of approximately \$921,504,300 in FY21-22 and subsequent years.

Assumptions:

- Under current law, pursuant to Title 29, Chapters 16 and 17:
 - A property owner is notified when a governmental entity wishes to acquire property utilizing eminent domain;
 - Compensation for damages, which includes the fair market value of the property and other considerations, is offered by the governmental entity to the property owner;
 - The property owner may dispute the amount of damages offered or the use of eminent domain; and
 - In the case of a dispute, a jury is appointed to determine the amount of damages to be awarded to the property owner.
- The proposed language would require a jury to value property at 130 percent of fair market value.
- This analysis assumes:
 - Current expenditures associated with each condemnation will increase by 30 percent;
 - There will be an increase in the number of condemnation proceedings which are decided by a jury, as juries will establish a higher level of damages to be awarded; and

- Such increase is estimated to be at least 30 percent.
- Based on information provided by the Department of Transportation (TDOT), in FY19-20, there were 34 condemnations which went before a jury and resulted in \$7,650,615 paid in damages.
- If TDOT had been required to compensate property owners an additional 30 percent over fair market value, it would have resulted in a total payment of \$9,945,800 ($\$7,650,615 \times 1.30$) in damages in FY19-20.
- Assuming the level of compensation remained constant, if the number of condemnation proceedings decided by a jury were to increase by 30 percent, it is reasonable to assume the total amount of compensation provided for damages would increase by 30 percent also; therefore, in FY19-20, it would have resulted in a total payment of \$12,929,540 ($\$9,945,800 \times 1.3$) for TDOT.
- The proposed language is estimated to result in a total increase in expenditures associated with TDOT condemnation proceedings of \$5,278,925 ($\$12,929,540 - \$7,650,615$).
- TDOT utilizes federal funding to pay 80 percent of the amount of damages associated with condemnation proceedings; therefore, only 20 percent is provided from the Highway Fund.
- The proposed language will result in a recurring increase in state expenditures of \$1,055,785 ($5,278,925 \times 20.0\%$), beginning in FY21-22.
- The proposed language will require the jury to also include the value of depreciation when determining the amount of damages to be awarded to property owners.
- Pursuant to 49 CFR § 24.103(b), appraisers are prohibited from taking into consideration the positive or negative impacts of a proposed project when determining just compensation for the property.
- Passage of the proposed legislation could jeopardize a portion or all of approximately \$921,504,300 in federal funding received by TDOT.
- A precise permissive increase in local government expenditures cannot reasonably be determined due to multiple unknown factors such as the number of properties which will be condemned in any given fiscal year, the current fair market value of such properties, and the extent of any increase in compensation for damages which will be awarded to property owners; however, such permissive increase in local government expenditures is reasonably estimated to exceed \$500,000 statewide, beginning in FY21-22.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

/jh